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A bill to be entitled  
 An act relating to juvenile sentencing; amending s.  
 985.231, F.S.; authorizing a judge to sentence a  
 delinquent child to a specific commitment program or  
 facility of the Department of Juvenile Justice; specifying  
 time limits to hold a child in secure detention while  
 awaiting placement into a specific program or facility  
 ordered by the court; reenacting ss. 985.201(4)(a),  
 985.233(4)(b), 985.31(3)(e) and (k), and 985.311(3)(e),  
 F.S., to incorporate by reference the amendment to s.  
 985.231, F.S.; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (a) of subsection (1) of section  
 985.231, Florida Statutes, is amended and paragraph (c) of  
 subsection (1) and paragraphs (h) and (i) of subsection (3) of  
 said section are reenacted, to read:

985.231 Powers of disposition in delinquency cases.--

(1)(a) The court that has jurisdiction of an adjudicated  
 delinquent child may, by an order stating the facts upon which a  
 determination of a sanction and rehabilitative program was made  
 at the disposition hearing:

1. Place the child in a probation program or a  
 postcommitment probation program under the supervision of an  
 authorized agent of the Department of Juvenile Justice or of any  
 other person or agency specifically authorized and appointed by  
 the court, whether in the child's own home, in the home of a  
 relative of the child, or in some other suitable place under  
 such reasonable conditions as the court may direct. A probation



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31 program for an adjudicated delinquent child must include a  
32 penalty component such as restitution in money or in kind,  
33 community service, a curfew, revocation or suspension of the  
34 driver's license of the child, or other nonresidential  
35 punishment appropriate to the offense and must also include a  
36 rehabilitative program component such as a requirement of  
37 participation in substance abuse treatment or in school or other  
38 educational program. If the child is attending or is eligible to  
39 attend public school and the court finds that the victim or a  
40 sibling of the victim in the case is attending or may attend the  
41 same school as the child, the court placement order shall  
42 include a finding pursuant to the proceedings described in s.  
43 985.23(1)(d). Upon the recommendation of the department at the  
44 time of disposition, or subsequent to disposition pursuant to  
45 the filing of a petition alleging a violation of the child's  
46 conditions of postcommitment probation, the court may order the  
47 child to submit to random testing for the purpose of detecting  
48 and monitoring the use of alcohol or controlled substances.

49 a. A restrictiveness level classification scale for levels  
50 of supervision shall be provided by the department, taking into  
51 account the child's needs and risks relative to probation  
52 supervision requirements to reasonably ensure the public safety.  
53 Probation programs for children shall be supervised by the  
54 department or by any other person or agency specifically  
55 authorized by the court. These programs must include, but are  
56 not limited to, structured or restricted activities as described  
57 in this subparagraph, and shall be designed to encourage the  
58 child toward acceptable and functional social behavior. If  
59 supervision or a program of community service is ordered by the  
60 court, the duration of such supervision or program must be



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61 consistent with any treatment and rehabilitation needs  
62 identified for the child and may not exceed the term for which  
63 sentence could be imposed if the child were committed for the  
64 offense, except that the duration of such supervision or program  
65 for an offense that is a misdemeanor of the second degree, or is  
66 equivalent to a misdemeanor of the second degree, may be for a  
67 period not to exceed 6 months. When restitution is ordered by  
68 the court, the amount of restitution may not exceed an amount  
69 the child and the parent or guardian could reasonably be  
70 expected to pay or make. A child who participates in any work  
71 program under this part is considered an employee of the state  
72 for purposes of liability, unless otherwise provided by law.

73 b. The court may conduct judicial review hearings for a  
74 child placed on probation for the purpose of fostering  
75 accountability to the judge and compliance with other  
76 requirements, such as restitution and community service. The  
77 court may allow early termination of probation for a child who  
78 has substantially complied with the terms and conditions of  
79 probation.

80 c. If the conditions of the probation program or the  
81 postcommitment probation program are violated, the department or  
82 the state attorney may bring the child before the court on a  
83 petition alleging a violation of the program. Any child who  
84 violates the conditions of probation or postcommitment probation  
85 must be brought before the court if sanctions are sought. A  
86 child taken into custody under s. 985.207 for violating the  
87 conditions of probation or postcommitment probation shall be  
88 held in a consequence unit if such a unit is available. The  
89 child shall be afforded a hearing within 24 hours after being  
90 taken into custody to determine the existence of probable cause



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91 that the child violated the conditions of probation or  
92 postcommitment probation. A consequence unit is a secure  
93 facility specifically designated by the department for children  
94 who are taken into custody under s. 985.207 for violating  
95 probation or postcommitment probation, or who have been found by  
96 the court to have violated the conditions of probation or  
97 postcommitment probation. If the violation involves a new charge  
98 of delinquency, the child may be detained under s. 985.215 in a  
99 facility other than a consequence unit. If the child is not  
100 eligible for detention for the new charge of delinquency, the  
101 child may be held in the consequence unit pending a hearing and  
102 is subject to the time limitations specified in s. 985.215. If  
103 the child denies violating the conditions of probation or  
104 postcommitment probation, the court shall appoint counsel to  
105 represent the child at the child's request. Upon the child's  
106 admission, or if the court finds after a hearing that the child  
107 has violated the conditions of probation or postcommitment  
108 probation, the court shall enter an order revoking, modifying,  
109 or continuing probation or postcommitment probation. In each  
110 such case, the court shall enter a new disposition order and, in  
111 addition to the sanctions set forth in this paragraph, may  
112 impose any sanction the court could have imposed at the original  
113 disposition hearing. If the child is found to have violated the  
114 conditions of probation or postcommitment probation, the court  
115 may:

116 (I) Place the child in a consequence unit in that judicial  
117 circuit, if available, for up to 5 days for a first violation,  
118 and up to 15 days for a second or subsequent violation.



119 (II) Place the child on home detention with electronic  
 120 monitoring. However, this sanction may be used only if a  
 121 residential consequence unit is not available.

122 (III) Modify or continue the child's probation program or  
 123 postcommitment probation program.

124 (IV) Revoke probation or postcommitment probation and  
 125 commit the child to the department.

126 d. Notwithstanding s. 743.07 and paragraph (d), and except  
 127 as provided in s. 985.31, the term of any order placing a child  
 128 in a probation program must be until the child's 19th birthday  
 129 unless he or she is released by the court, on the motion of an  
 130 interested party or on its own motion.

131 2. Commit the child to a licensed child-caring agency  
 132 willing to receive the child, but the court may not commit the  
 133 child to a jail or to a facility used primarily as a detention  
 134 center or facility or shelter.

135 3. Commit the child to the Department of Juvenile Justice  
 136 at a residential commitment level defined in s. 985.03. The  
 137 court may, in its discretion, specify a program or facility  
 138 within the commitment level to which the child has been ordered.  
 139 A child ordered committed into a specific low-risk residential  
 140 program or facility may not be held in secure detention for more  
 141 than 5 days after the order of commitment, not including  
 142 Saturdays, Sundays, and legal holidays, while awaiting  
 143 placement. A child ordered committed to a specific moderate-risk  
 144 residential program or facility may not be held in secure  
 145 detention for more than 15 days after the order of commitment,  
 146 not including Saturdays, Sundays, and legal holidays, while  
 147 awaiting placement. A child awaiting placement into a specific  
 148 low-risk or moderate-risk residential program or facility must



149 meet the detention admission criteria provided in s. 985.215. A  
 150 child ordered committed into a specific high-risk residential or  
 151 maximum-risk residential program or facility shall be held in  
 152 secure detention until the placement is accomplished. For a  
 153 child ordered committed to a high-risk residential or maximum-  
 154 risk residential program or facility, the department may notify  
 155 the dispositional judge of alternative placements of the same  
 156 risk level, as space becomes available, which could be  
 157 accomplished prior to entry of the child into the court-ordered  
 158 program or facility. With respect to any court-specified  
 159 placement, the court may not select a program or facility that  
 160 is not under contract with the department. If the court finds  
 161 that the planned vacancies at the program or facility specified  
 162 by the court are insufficient to allow for the placement of the  
 163 child within 45 days after the commitment order, the court must  
 164 select a program or facility of the same commitment risk level  
 165 from at least three alternative placements provided by the  
 166 department.

167 Such commitment must be for the purpose of exercising active  
 168 control over the child, including, but not limited to, custody,  
 169 care, training, urine monitoring, and treatment of the child and  
 170 release of the child into the community in a postcommitment  
 171 nonresidential conditional release program. If the child is  
 172 eligible to attend public school following residential  
 173 commitment and the court finds that the victim or a sibling of  
 174 the victim in the case is or may be attending the same school as  
 175 the child, the commitment order shall include a finding pursuant  
 176 to the proceedings described in s. 985.23(1)(d). If the child is  
 177 not successful in the conditional release program, the  
 178 department may use the transfer procedure under s. 985.404.



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179 Notwithstanding s. 743.07 and paragraph (d), and except as  
180 provided in s. 985.31, the term of the commitment must be until  
181 the child is discharged by the department or until he or she  
182 reaches the age of 21.

183 4. Revoke or suspend the driver's license of the child.

184 5. Require the child and, if the court finds it  
185 appropriate, the child's parent or guardian together with the  
186 child, to render community service in a public service program.

187 6. As part of the probation program to be implemented by  
188 the Department of Juvenile Justice, or, in the case of a  
189 committed child, as part of the community-based sanctions  
190 ordered by the court at the disposition hearing or before the  
191 child's release from commitment, order the child to make  
192 restitution in money, through a promissory note cosigned by the  
193 child's parent or guardian, or in kind for any damage or loss  
194 caused by the child's offense in a reasonable amount or manner  
195 to be determined by the court. The clerk of the circuit court  
196 shall be the receiving and dispensing agent. In such case, the  
197 court shall order the child or the child's parent or guardian to  
198 pay to the office of the clerk of the circuit court an amount  
199 not to exceed the actual cost incurred by the clerk as a result  
200 of receiving and dispensing restitution payments. The clerk  
201 shall notify the court if restitution is not made, and the court  
202 shall take any further action that is necessary against the  
203 child or the child's parent or guardian. A finding by the court,  
204 after a hearing, that the parent or guardian has made diligent  
205 and good faith efforts to prevent the child from engaging in  
206 delinquent acts absolves the parent or guardian of liability for  
207 restitution under this subparagraph.



208           7. Order the child and, if the court finds it appropriate,  
 209 the child's parent or guardian together with the child, to  
 210 participate in a community work project, either as an  
 211 alternative to monetary restitution or as part of the  
 212 rehabilitative or probation program.

213           8. Commit the child to the Department of Juvenile Justice  
 214 for placement in a program or facility for serious or habitual  
 215 juvenile offenders in accordance with s. 985.31. Any commitment  
 216 of a child to a program or facility for serious or habitual  
 217 juvenile offenders must be for an indeterminate period of time,  
 218 but the time may not exceed the maximum term of imprisonment  
 219 that an adult may serve for the same offense. The court may  
 220 retain jurisdiction over such child until the child reaches the  
 221 age of 21, specifically for the purpose of the child completing  
 222 the program.

223           9. In addition to the sanctions imposed on the child,  
 224 order the parent or guardian of the child to perform community  
 225 service if the court finds that the parent or guardian did not  
 226 make a diligent and good faith effort to prevent the child from  
 227 engaging in delinquent acts. The court may also order the parent  
 228 or guardian to make restitution in money or in kind for any  
 229 damage or loss caused by the child's offense. The court shall  
 230 determine a reasonable amount or manner of restitution, and  
 231 payment shall be made to the clerk of the circuit court as  
 232 provided in subparagraph 6.

233           10. Subject to specific appropriation, commit the juvenile  
 234 sexual offender to the Department of Juvenile Justice for  
 235 placement in a program or facility for juvenile sexual offenders  
 236 in accordance with s. 985.308. Any commitment of a juvenile  
 237 sexual offender to a program or facility for juvenile sexual





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238 offenders must be for an indeterminate period of time, but the  
239 time may not exceed the maximum term of imprisonment that an  
240 adult may serve for the same offense. The court may retain  
241 jurisdiction over a juvenile sexual offender until the juvenile  
242 sexual offender reaches the age of 21, specifically for the  
243 purpose of completing the program.

244 (c) Any order made pursuant to paragraph (a) shall be in  
245 writing as prepared by the clerk of court and may thereafter be  
246 modified or set aside by the court.

247 (3) Following a delinquency adjudicatory hearing pursuant  
248 to s. 985.228, the court may on its own or upon request by the  
249 state or the department and subject to specific appropriation,  
250 determine whether a juvenile sexual offender placement is  
251 required for the protection of the public and what would be the  
252 best approach to address the treatment needs of the juvenile  
253 sexual offender. When the court determines that a juvenile has  
254 no history of a recent comprehensive assessment focused on  
255 sexually deviant behavior, the court may, subject to specific  
256 appropriation, order the department to conduct or arrange for an  
257 examination to determine whether the juvenile sexual offender is  
258 amenable to community-based treatment.

259 (h) If the juvenile sexual offender violates any condition  
260 of the disposition or the court finds that the juvenile sexual  
261 offender is failing to make satisfactory progress in treatment,  
262 the court may revoke the community-based treatment alternative  
263 and order commitment to the department pursuant to subsection  
264 (1).

265 (i) If the court determines that the juvenile sexual  
266 offender is not amenable to community-based treatment, the court



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267 shall proceed with a juvenile sexual offender disposition  
 268 hearing pursuant to subsection (1).

269 Section 2. For the purpose of incorporating the amendment  
 270 to section 985.231, Florida Statutes, in references thereto,  
 271 paragraph (a) of subsection (4) of section 985.201, Florida  
 272 Statutes, is reenacted to read:

273 985.201 Jurisdiction.--

274 (4)(a) Notwithstanding ss. 743.07, 985.229, 985.23, and  
 275 985.231, and except as provided in ss. 985.31 and 985.313, when  
 276 the jurisdiction of any child who is alleged to have committed a  
 277 delinquent act or violation of law is obtained, the court shall  
 278 retain jurisdiction, unless relinquished by its order, until the  
 279 child reaches 19 years of age, with the same power over the  
 280 child that the court had prior to the child becoming an adult.

281 Section 3. For the purpose of incorporating the amendment  
 282 to section 985.231, Florida Statutes, in references thereto,  
 283 paragraph (b) of subsection (4) of section 985.233, Florida  
 284 Statutes, is reenacted to read:

285 985.233 Sentencing powers; procedures; alternatives for  
 286 juveniles prosecuted as adults.--

287 (4) SENTENCING ALTERNATIVES.--

288 (b) *Sentencing to juvenile sanctions.*--For juveniles  
 289 transferred to adult court but who do not qualify for such  
 290 transfer pursuant to s. 985.226(2)(b) or s. 985.227(2)(a) or  
 291 (b), the court may impose juvenile sanctions under this  
 292 paragraph. If juvenile sentences are imposed, the court shall,  
 293 pursuant to this paragraph, adjudge the child to have committed  
 294 a delinquent act. Adjudication of delinquency shall not be  
 295 deemed a conviction, nor shall it operate to impose any of the  
 296 civil disabilities ordinarily resulting from a conviction. The



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297 court shall impose an adult sanction or a juvenile sanction and  
298 may not sentence the child to a combination of adult and  
299 juvenile punishments. An adult sanction or a juvenile sanction  
300 may include enforcement of an order of restitution or probation  
301 previously ordered in any juvenile proceeding. However, if the  
302 court imposes a juvenile sanction and the department determines  
303 that the sanction is unsuitable for the child, the department  
304 shall return custody of the child to the sentencing court for  
305 further proceedings, including the imposition of adult  
306 sanctions. Upon adjudicating a child delinquent under subsection  
307 (1), the court may:

308 1. Place the child in a probation program under the  
309 supervision of the department for an indeterminate period of  
310 time until the child reaches the age of 19 years or sooner if  
311 discharged by order of the court.

312 2. Commit the child to the department for treatment in an  
313 appropriate program for children for an indeterminate period of  
314 time until the child is 21 or sooner if discharged by the  
315 department. The department shall notify the court of its intent  
316 to discharge no later than 14 days prior to discharge. Failure  
317 of the court to timely respond to the department's notice shall  
318 be considered approval for discharge.

319 3. Order disposition pursuant to s. 985.231 as an  
320 alternative to youthful offender or adult sentencing if the  
321 court determines not to impose youthful offender or adult  
322 sanctions.

323

324 It is the intent of the Legislature that the criteria and  
325 guidelines in this subsection are mandatory and that a



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326 determination of disposition under this subsection is subject to  
327 the right of the child to appellate review under s. 985.234.

328 Section 4. For the purpose of incorporating the amendment  
329 to section 985.231, Florida Statutes, in references thereto,  
330 paragraphs (e) and (k) of subsection (3) of section 985.31,  
331 Florida Statutes, are reenacted to read:

332 985.31 Serious or habitual juvenile offender.--

333 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND  
334 TREATMENT.--

335 (e) After a child has been adjudicated delinquent pursuant  
336 to s. 985.228, the court shall determine whether the child meets  
337 the criteria for a serious or habitual juvenile offender  
338 pursuant to s. 985.03(48). If the court determines that the  
339 child does not meet such criteria, the provisions of s.  
340 985.231(1) shall apply.

341 (k) Any commitment of a child to the department for  
342 placement in a serious or habitual juvenile offender program or  
343 facility shall be for an indeterminate period of time, but the  
344 time shall not exceed the maximum term of imprisonment which an  
345 adult may serve for the same offense. Notwithstanding the  
346 provisions of ss. 743.07 and 985.231(1)(d), a serious or  
347 habitual juvenile offender shall not be held under commitment  
348 from a court pursuant to this section, s. 985.231, or s. 985.233  
349 after becoming 21 years of age. This provision shall apply only  
350 for the purpose of completing the serious or habitual juvenile  
351 offender program pursuant to this chapter and shall be used  
352 solely for the purpose of treatment.

353 Section 5. For the purpose of incorporating the amendment  
354 to section 985.231, Florida Statutes, in references thereto,



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355 paragraph (e) of subsection (3) of section 985.311, Florida  
 356 Statutes, is reenacted to read:

357 985.311 Intensive residential treatment program for  
 358 offenders less than 13 years of age.--

359 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND  
 360 TREATMENT.--

361 (e) After a child has been adjudicated delinquent pursuant  
 362 to s. 985.228(5), the court shall determine whether the child is  
 363 eligible for an intensive residential treatment program for  
 364 offenders less than 13 years of age pursuant to s. 985.03(7). If  
 365 the court determines that the child does not meet the criteria,  
 366 the provisions of s. 985.231(1) shall apply.

367 Section 6. This act shall take effect upon becoming a law.